

AMENDED IN ASSEMBLY APRIL 21, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1226

Introduced by Assembly Member Montanez
(Coauthor: Assembly Member Firebaugh)

February 21, 2003

An act relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1226, as amended, Montanez. Corporation Tax Law: credit unions: study.

The Corporation Tax Law, in general, imposes a franchise tax on corporate taxpayers measured by the net income from California sources of the preceding taxable year but exempts from the franchise tax imposed by that law certain organizations, including credit unions.

This bill would direct the Legislative Analyst's ~~Office~~ *office* to review, *using existing budget resources*, the feasibility of imposing *specific community reinvestment obligations* and a fee on *certain* state and federally chartered credit unions for purposes of ~~funding~~ *benefiting* public education, *assisting communities*, and creating some parity between the credit unions and other financial institutions. This bill would also make certain legislative findings and declarations relating to the current business structure of credit unions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) Credit unions in California have evolved from niche players with a limited membership base into full-service retail depository institutions that actively and successfully compete for bank customers, and are able to offer their customers virtually the same financial services as community banks, *including, but not limited to, sophisticated lending arrangements such as loan syndications and loan participations, and commercial business loans for inventory and equipment.*

(b) Since credit unions are exempt from tax, they *have an increased ability to* accumulate assets and increase their profitability more rapidly than similarly situated community banks subject to taxation. According to the California Department of Financial Institutions, the asset growth among California credit unions has quadrupled since 1994, and their combined net income has increased more than sevenfold from \$165.6 million in 1994 to \$1.3 billion in 2002.

(c) Historically, credit unions ~~could offer~~ *have offered* membership to customers who shared a common bond to one another, such as a common employer. Today, the common-bond requirement has ~~virtually vanished, and credit unions can~~ *changed substantially, and credit unions may organize and solicit* potential members from an ever-expanding customer base ~~that has little or nothing to do with the original purpose of creating tax-exempt credit unions.~~ *of individuals and commercial businesses.* Indeed, the common bond required for a credit union has ~~eroded to the point~~ *changed so dramatically in recent years* that the fundamental structure of many credit unions in California and the nature of financial services and products offered to their customers resemble those of other financial institutions, including community banks.

(d) *Despite record growth and earnings, credit unions have not undertaken an affirmative obligation to reinvest in the communities in which they do business to meet the credit and deposit needs of their local communities, including low- and moderate-income neighborhoods; nor have credit unions participated in community sponsorship activities, such as grants, that beneficially impact the communities in which they do*

1 *business, consistent with the guidelines and principles of the*
2 *federal Community Reinvestment Act.*

3 *(e) Credit unions have potentially assumed significant internal*
4 *risks by expanding their consumer and business membership base,*
5 *and the consumer and commercial financial products and services*
6 *they offer to their customers, without a corresponding assumption*
7 *of increased regulatory control. Currently, regulation of credit*
8 *unions is significantly less stringent than the regulations of*
9 *community banks, with which they compete. Thus, credit unions do*
10 *not have regulatory capital requirements that are imposed on*
11 *similarly situated community banks. For example, regulatory*
12 *control of credit unions set forth in conflict-of-interest rules is not*
13 *as strict as it is for community banks. In addition, loans to insiders*
14 *are not as restricted for credit unions as they are for community*
15 *banks, and requirements imposed on loans-to-one-borrower are*
16 *not as stringent as the requirements imposed on similar loans that*
17 *are provided by community banks.*

18 *(f) The Legislature finds and declares that the state and*
19 *federally chartered credit unions accrue great benefits from doing*
20 *business in California. As the asset base and profitability retained*
21 *earnings of the credit unions continue to grow, there is no*
22 *justification for continuation of a credit union subsidy in*
23 *California sufficient justification for analyzing the need for*
24 *imposition of additional statutory duties on credit unions,*
25 *including community reinvestment obligations, increased*
26 *capitalization requirements, and more stringent*
27 *conflict-of-interest rules. The Legislature further finds and*
28 *declares that a study should be conducted to determine the*
29 *feasibility of imposing a fee on the state and federally chartered*
30 *credit unions for purposes of funding the study should include an*
31 *evaluation of the tax exemption provisions applicable to state and*
32 *federally chartered credit unions, and should determine if there is*
33 *a need to impose a fee on state and federally chartered credit*
34 *unions for purposes of benefiting public education and creating*
35 *some parity between credit unions and other financial institutions,*
36 *including state-chartered community banks, that are subject to*
37 *state and federal taxation.*

38 *SEC. 2. The Legislative Analyst's Office shall review and*
39 *analyze the feasibility of imposing a fee on implementing statutory*
40 *changes applicable to the state and federally chartered credit*

1 unions that (a) have assets of \$1 billion or more, (b) offer
2 commercial loan products and commercial loan services to
3 businesses, and (c) no longer require a traditional common bond
4 for their members. On or before January 1, 2005, the Legislative
5 Analyst's ~~Office~~ *office, using existing budget resources*, shall
6 prepare and submit to the Legislature a report evaluating the
7 consequences, including, but not limited to, ~~economic and legal~~
8 ~~implications, of the potential imposition of a~~ *the economic and*
9 *legal implications of, implementing statutory changes, including,*
10 *but not limited to, mandatory community reinvestment and*
11 *additional capitalization requirements, more stringent*
12 *conflict-of-interest rules, and the imposition of a fee on credit*
13 unions.

